

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

Brenda J. Coger,

Plaintiff,

v.

Case No. 05-70001

Primerica Life Insurance Company,
a Massachusetts Corporation licensed
in the State of Michigan,

Honorable Sean F. Cox

Defendant.

ORDER OVERRULING
PLAINTIFF'S OBJECTIONS TO MAGISTRATE JUDGE MORGAN'S
NOVEMBER 13, 2006 ORDER AND DENYING REQUEST TO MODIFY ORDER

Plaintiff Brenda J. Coger ("Plaintiff") filed this action against Defendant Primerica Life Insurance Company ("Primerica") alleging that Primerica breached a life insurance policy when it denied her claim for life insurance benefits following the death of her husband. On September 29, 2006, Primerica filed a motion seeking to amend its witness list in order to add a single witness, which the Court referred to Magistrate Judge Virginia Morgan for hearing and determination pursuant to 28 U.S.C. §636(b)(1)(A).

On November 13, 2006, Magistrate Judge Morgan issued an Order Granting Defendant's Motion to Amend Witness List. The Order states that, for the reasons stated on the record, the motion was granted. It further provides that Plaintiff may depose the witness in question on or before December 20, 2006, and that the sum of \$1,500.00 is ordered to be paid to Plaintiff's counsel to defray costs of the deposition pursuant to FED. R. CIV. P. 37.

FED. R. CIV. P. 72(a) provides that after a Magistrate Judge issues an order on a nondispositive motion, a party may file and serve objections to that order within ten days. "The

district judge to whom the case is assigned shall consider such objections and shall modify or set aside any portion of the magistrate judge's order found to be clearly erroneous or contrary to law." *Id.*

On November 22, 2006, Plaintiff filed timely objections to Magistrate Judge Morgan's November 13, 2006 Order. Plaintiff asserts that Magistrate Judge Morgan's ruling was contrary to law when she permitted Defendant to file an amended witness list without making a showing of good cause as required by FED. R. CIV. P. 16. Plaintiff further asserts that the Magistrate Judge Morgan "clearly erred" by permitting Defendant to amend its witness list "to the extreme prejudice of Plaintiff."

Magistrate Judge Morgan's November 13, 2006 Order states that it was granted for the reasons stated on the record at the hearing. Plaintiff, however, has not provided the Court with a copy of the transcript of the hearing or otherwise informed the Court of the reasons that were stated on the record for granting the Motion. Accordingly, Plaintiff has not met her burden of establishing that Magistrate Judge Morgan's Order is clearly erroneous or contrary to law.¹

Accordingly, **IT IS ORDERED** that Plaintiff's Objections to Magistrate Judge Morgan's November 13, 2006 Order are **OVERRULED** and that the Court **DENIES** Plaintiff's request for modification of the November 13, 2006 Order.

IT IS SO ORDERED.

Dated: December 26, 2006

S/Sean F. Cox

Sean F. Cox

United States District Judge

¹Moreover, even if the Court were deciding the motion *de novo*, based upon the record before the Court, the Court would grant the same relief provided by Magistrate Judge Morgan because the Court is satisfied that Defendant has shown good cause for the amended witness list and that Plaintiff will not be prejudiced by the amendment.

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PROOF OF SERVICE

I hereby certify that a copy of the foregoing document was served upon counsel of record on December 26, 2006, by electronic and/or ordinary mail.

S/Jennifer Hernandez

Case Manager